

IN THE CIRCUIT COURT OF
LOWNDES COUNTY, ALABAMA

DOUGLAS E. MARTIN,

Plaintiff,

vs.

LIBERTY MUTUAL INSURANCE
COMPANY, a corporation

Defendant.

CIVIL ACTION

Case No.: CW06-49



SUMMONS

To any sheriff or any person authorized by either Rule 4.1(b)(2) or 4.2(a) of the Alabama Rules of Civil Procedure to effect service.

You are hereby commanded to serve this summons and a copy of the complaint in this action upon The Corporation Company, 2000 Interstate Park Drive, Suite 204, Montgomery, AL 36109.

NOTICE TO DEFENDANT

The Complaint which is attached to this summons is important and you must take immediate action to protect your rights. You are required to mail or hand deliver a copy of a written answer, either admitting or denying each allegation in the Complaint, to Dwayne L. Brown, the lawyer for the Plaintiff(s), whose address is: Post Office Box 230205, Montgomery, Alabama 36123. THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY (30) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. You must also file the original of your Answer with the Clerk of this Court within a reasonable time afterward.

Dated: 5/5/06



Clerk Of Court

RETURN ON SERVICE

Received this summons at _____ on _____ and on _____ at _____ I served it on the
within named _____ by delivering a copy of the process and accompanying documents
to said individual.

Dated: _____

Process Server Signature

IN THE CIRCUIT COURT OF
LOWNDES COUNTY, ALABAMA

DOUGLAS E. MARTIN,

Plaintiff,

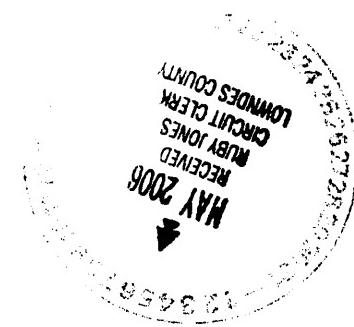
vs.

LIBERTY MUTUAL INSURANCE
COMPANY, a corporation

Defendant.

CIVIL ACTION

Case No.: 0406-449



COMPLAINT

PARTIES

1. Douglas E. Martin, hereinafter referred to as Plaintiff Martin, at all times material to this action, was a resident of and domiciled in Hayneville, Lowndes County, Alabama.
2. Liberty Mutual Life Insurance Company, hereinafter referred to as Defendant Company, at all times material to this action, was a company doing business in the state of Alabama with its corporate headquarters in Boston, Massachusetts.

COUNT ONE

BAD FAITH

3. Plaintiff repeat and allege every allegation contained in paragraphs one (1) and two (2) of this complaint as is set out fully herein.
4. On or about March 30, 2005, Plaintiff Martin purchased a 2005 Suzuki Motorcycle.
5. On or about March 31, 2005, Plaintiff Martin, for valuable consideration, obtained an insurance policy from Defendant Company providing for bodily injury, liability, property damage liability, and uninsured motorist coverage. Pursuant to said policy, bearing policy number AO2-258-534709-10, Plaintiff Martin submitted payment and

- Defendant Company accepted payment.
- On or about April 25, 2005, Plaintiff Martin's motorcycle was stolen near Interstate 85 in Mt. Miegs, Alabama.
- Plaintiff Martin informed Defendant Company of the theft, and Defendant Company did not pay the claim, causing the plaintiff an increase in loss.
- Defendant Company, for no legitimate reason, requested that Plaintiff Martin submit to an Examination Under Oath on June 24, 2005, which was not convenient for Plaintiff Martin.
- On or about August 15, 2005, upon rescheduling of the Examination Under Oath, Plaintiff Martin went to the location that was specified for the examination. The Defendant Company representative was not present and failed to investigate Plaintiff Martin's claim. Defendant Company did not contact Plaintiff Martin to inform him of any cancellation, causing Plaintiff Martin an unreasonable expense and further delay in resolving his claim.
- By delaying the settlement of Plaintiff Martin's claim for no legitimate/arguable reason and failing to investigate the same, the inaction of Defendant Company constitutes bad faith which has caused Plaintiff Martin to suffer damages.

WHEREFORE, the above premises considered, the Plaintiff demands judgment against the Defendant in the amount of \$500, 000.00 together with interest and costs of this proceeding.

COUNT TWO

BREACH OF CONTRACT

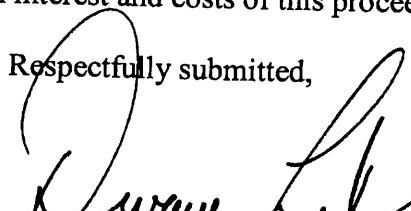
- Plaintiff repeat and allege every allegation contained in paragraphs one (1) through ten (10) of this Complaint as if fully set out herein.
- On March 31, 2005, Plaintiff Martin contracted with Defendant Company, and the

Defendant Company agreed that it would insure Plaintiff Martin's motorcycle in the case of any loss or damage.

14. Defendant Company breached said contract by its intentional refusal to pay Plaintiff Martin's claim in reasonable time.

WHEREFORE, the above premises considered, the Plaintiff demands judgment against the Defendant in the amount of \$80,000, together with interest and costs of this proceeding.

Respectfully submitted,


Dwayne L. Brown (BRO#49)
Attorney for Plaintiff

Of Counsel:

Law Office of Dwayne L. Brown, P.C.
P.O. Box 230205
Montgomery, AL 36123
Telephone: (334) 277-3757
Facsimile: (334) 277-3613
E-Mail: dbrown@dbrownatty.com

JURY DEMAND

PLAINTIFF DEMANDS A TRIAL BY STRUCK JURY.

**IN THE CIRCUIT COURT OF
LOWNDES COUNTY, ALABAMA**

DOUGLAS E. MARTIN,

)

Plaintiff,

)

vs.

)

**LIBERTY MUTUAL INSURANCE
COMPANY, a corporation**

)

Defendant.

)

)

)

CIVIL ACTION

Case No.: 06-49

RECEIVED
RUBY JONES
CIRCUIT CLERK
LOWNDES COUNTY

MAY 2006

PLAINTIFF'S INTERROGATORIES

COMES now the Plaintiff and propounds the following interrogatories to the Defendant to be answered in writing and under oath within 45 days of service hereof.

1. State the name, address, title, and duties of the person answering these interrogatories and the place where these interrogatories are answered.
2. State the name, address, and job title of each person who was contacted in answering these interrogatories or who provided information relevant to the answering of the interrogatories and the proper designation of each book, document, or record which was searched in answering the interrogatories.
3. Is the Defendant's name, Liberty Mutual Insurance Company, correctly stated in the complaint on file in this case? If not, state the correct way that this Defendant should be designated as a party defendant in an action of law:
 - a. at the time the conduct complained of in the complaint filed herein;
 - b. at the present time.
4. State the name of any person who participated in the decision to have Plaintiff submit to an examination under oath.
5. State the name, address, and job title at the issuance of the policy of the person who issued the policy to the Plaintiff. Also, state the names, address, and job title of the person who authorized the insurance.
6. State the manner in which past premium payments on the policy was made. Also state how many payments had been made.

7. Does this Defendant contend that it does not have a valid contract of insurance with Plaintiff? If so, on what basis does Defendant make this contention? State in complete detail on what grounds Defendant bases the denial of coverage.
8. State the date that the insurance coverage was issued to the Plaintiff and the first date that Defendant contends a valid contract of insurance with the Plaintiff did not exist.
9. State whether there are any writings including but not limited to letters, notes , memorandum, or other form of record failure to settle the Plaintiff's claim on the insurance policy made the basis of the occurrence of this lawsuit or concerning any of the contacts listed in answers to the preceding interrogatories? If so, give the name, address, and telephone number of the person who has custody of such records. Please attach a copy of each record to your answers.
10. Did this Defendant seek a response to any inquiry from the Plaintiff for policy benefits? If so, state name, address, and telephone number of person who would have record of this.
11. If Defendant sought a response to any inquiry, did the Plaintiff fail to reply? If not, what was insured's reply?
12. Does Defendant claim that any of the answers received from questions/inquiries to Plaintiff were insufficient? If so, for each such answer, state:
 - a. context of questions to which made;
 - b. substance;
 - c. date the question was received in Plaintiff's behalf;
 - d. name and address.
13. Does Defendant claim Plaintiff made any representation to this Defendant concerning any matters involved in issuance and effectiveness of policy? If so, state:
 - a. how the representation was made and reason it was made;
 - b. whether the representations were sufficient or defective.
14. State whether or not there have been, or are now, lawsuits pending against this Defendant claiming injury or damage due to breach of contract, breach of fiduciary duty, fraudulent, wanton or intentional misrepresentations, unethical business practices, and any other negligent or wanton conduct involved in this Defendant's instructional programs for finance and insurance managers that is similar to the occurrence that made the basis of this lawsuit. If so, for each such lawsuit, state:
 - a. the date of the filing of each such lawsuit;

- b. the court in which such lawsuit was filed;
 - c. the action or court number of each lawsuit;
 - d. the name and address of all parties, including Plaintiff and Defendant, to each lawsuit;
 - e. a full and complete statement of the substance of all claims and allegations of each such lawsuit;
 - f. the jurisdiction in which each such action was filed.;
 - g. the jurisdiction in which each such action came or will come to trial if different from answer in Paragraph f;
 - h. the disposition of each lawsuit;
 - i. the name and addresses of each person having possession, control, or custody of any or all records relating to such legal action against this Defendant involving such a claim or similar claim.
15. State the name and address of each person known by this Defendant to have any knowledge whatsoever of matters pertinent to the occurrence that made the basis of Plaintiff's complaint.
16. Please list all current and prior lawsuits against the insurance company alleging breach of contract, fraud, and/or bad faith. The list should include the name of the jurisdiction where the lawsuit was filed, the name of the Plaintiff, and the date the lawsuit was filed.
17. Please attach copies of all complaints sent to the insurance company or received by the insurance company from the Alabama Department of Insurance regarding the company's "automobile theft" policy since the 25th day of April 2005.
18. Please attach copies of any and all written reprimands or written evidence of disciplinary actions taken against the insurance company from state insurance boards, attorney generals, or state departments of insurance.
19. Please attach copies of all training materials utilized by the insurance carrier's claims office. This should include all procedures manuals in which the company has dictated the method in which claims are to be handled.

Respectfully submitted,

DWAYNE L. BROWN (BRO149)
Attorney for Plaintiff

Of Counsel:

Law Office of Dwayne L. Brown, P.C.
Post Office Box 230205
Montgomery, AL 36123-0205
Telephone: (334) 277-3757
Facsimile: (334) 277-3613
E-Mail: dbrown@dbrownatty.com

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**
05/16/2006
Log Number 511160084

RECEIVED

MAY 18 2006
70733
H.O. LEGAL DEPT.

TO: Gauri Patil
Liberty Mutual Insurance Company
Mail Stop 07A, 175 Berkeley Street
Boston, MA, 02116

RE: **Process Served In Alabama**

FOR: Liberty Mutual Insurance Company (Domestic State: MA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Douglas E. Martin, Pltf. vs. Liberty Mutual Insurance Company, Dft.

DOCUMENT(S) SERVED: Summons, Complaint, Interrogatories

COURT/AGENCY: Lowndes County Circuit Court, AL
Case # CV 06 49

NATURE OF ACTION: Insurance Litigation - Failure to pay benefits under policy of insurance.

ON WHOM PROCESS WAS SERVED: The Corporation Company, Montgomery, AL

DATE AND HOUR OF SERVICE: By Process Server on 05/16/2006 at 10:00

APPEARANCE OR ANSWER DUE: 30 days

ATTORNEY(S) / SENDER(S): Dwayne L. Brown
PO Box 230205
Montgomery, AL, 36123

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day, 790431108424

SIGNED: The Corporation Company
ADDRESS: 2000 Interstate Park Drive
Suite 204
Montgomery, AL, 36109

TELEPHONE: 334-387-7680

Page 1 of 1 / CT

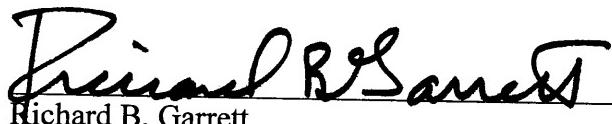
Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of the package only, not of its contents.

IN THE CIRCUIT COURT OF LOWNES COUNTY,
ALABAMA

DOUGLAS E. MARTIN, *
*
Plaintiff, *
*
v. * CV No. 06-0049
*
LIBERTY MUTUAL INSURANCE *
COMPANY, a corporation, *
*
Defendant. *

NOTICE OF NOTICE OF REMOVAL

Comes now Defendant Liberty Mutual Insurance Company and hereby gives notice to this Honorable Court that they have this date filed a Notice of Removal removing this case to the United States District Court for the Middle District of Alabama, Northern Division. A copy of said Notice of Removal is attached hereto as Exhibit A.


Richard B. Garrett
Bar Number: (ASB-0782-A29R)

RUSHTON, STAKELY, JOHNSTON
& GARRETT, P.A.
Post Office box 270
Montgomery, Alabama 36101-0270
Telephone: 334/206-3100
Fax: 334/263-4157
E-mail:rbg@rsjg.com

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon:

Dwayne L. Brown, Esquire
P. O. Box 230205
Montgomery, Alabama 36123

by placing same in the United States mail, postage prepaid, this the 7th day of June, 2006.


Dwayne L. Brown, Esquire
Of Counsel